

## **Assembly Bill No. 1566**

### **CHAPTER 432**

An act to amend Section 530.5 of the Penal Code, relating to crime.

[Approved by Governor September 30, 2005. Filed with  
Secretary of State September 30, 2005.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1566, Calderon. Identity theft.

Existing law provides that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information of another person is punishable by imprisonment in a county jail for a period not to exceed one year, or a fine not to exceed \$1,000, or by both that imprisonment and fine.

This bill would provide that a violation of these provisions with respect to the personal identifying information of a person who is either a member of the armed forces, or is a member of the armed forces reserve or the National Guard, who has been called to active duty or active service and is deployed to a location outside of the state, as specified, is punishable by imprisonment in a county jail for one year, a fine not to exceed \$1,500, or by both that imprisonment and fine.

Because this bill would create a new crime, it would impose a state-mandated local program.

This bill would incorporate additional changes in Section 530.5 of the Penal Code proposed by AB 424 that would become operative only if AB 424 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 530.5 of the Penal Code is amended to read:

530.5. (a) Every person who willfully obtains personal identifying information, as defined in subdivision (b), of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, or medical information in the name of the other person without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished either by imprisonment in a county jail not to exceed one year, a fine not to exceed

one thousand dollars (\$1,000), or both that imprisonment and fine, or by imprisonment in the state prison, a fine not to exceed ten thousand dollars (\$10,000), or both that imprisonment and fine.

(b) “Personal identifying information,” as used in this section, means the name, address, telephone number, health insurance identification number, taxpayer identification number, school identification number, state or federal driver’s license number, or identification number, social security number, place of employment, employee identification number, mother’s maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voice print, retina or iris image, or other unique physical representation, unique electronic data including identification number, address, or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person.

(c) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(d) Every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined in subdivision (b), of another person is guilty of a public offense, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) Every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined in subdivision (b), of another person who is deployed to a location outside of the state is guilty of a public offense, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or a fine not to exceed one thousand five hundred dollars (\$1,500), or by both that imprisonment and fine.

(f) For purposes of this section, “deployed” means that the person has been ordered to serve temporary military duty during a period when a presidential executive order specifies that the United States is engaged in combat or homeland defense and he or she is either a member of the armed forces, or is a member of the armed forces reserve or the National Guard, who has been called to active duty or active service. It does not include temporary duty for the sole purpose of training or processing or a permanent change of station.

SEC. 1.5. Section 530.5 of the Penal Code is amended to read:

530.5. (a) Every person who willfully obtains personal identifying information, as defined in subdivision (b), of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to

obtain, credit, goods, services, or medical information in the name of the other person without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished either by imprisonment in a county jail not to exceed one year, a fine not to exceed one thousand dollars (\$1,000), or both that imprisonment and fine, or by imprisonment in the state prison, a fine not to exceed ten thousand dollars (\$10,000), or both that imprisonment and fine.

(b) “Personal identifying information,” as used in this section, means the name, address, telephone number, health insurance identification number, taxpayer identification number, school identification number, state or federal driver’s license number, or identification number, social security number, place of employment, employee identification number, mother’s maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voice print, retina or iris image, or other unique physical representation, unique electronic data including identification number, address, or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, credit card number of a person, or an equivalent form of identification.

(c) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(d) Every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined in subdivision (b), of another person is guilty of a public offense, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) Every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined in subdivision (b), of another person who is deployed to a location outside of the state is guilty of a public offense, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or a fine not to exceed one thousand five hundred dollars (\$1,500), or by both that imprisonment and fine.

(f) For purposes of this section, “deployed” means that the person has been ordered to serve temporary military duty during a period when a presidential executive order specifies that the United States is engaged in combat or homeland defense and he or she is either a member of the armed forces, or is a member of the armed forces reserve or the National Guard, who has been called to active duty or active service. It does not include temporary duty for the sole purpose of training or processing or a permanent change of station.

(g) For purposes of this section, “person” means a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, or public entity.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 530.5 of the Penal Code proposed by both this bill and Assembly Bill 424. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 530.5 of the Penal Code, and (3) this bill is enacted after Assembly Bill 424, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.